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2 **So Ordered.**



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Patricia C. Williams
Patricia C. Williams
Bankruptcy Judge

Dated: October 25th, 2013

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

DC No. 11-CV-364-RMP

LLS AMERICA, LLC,

Case No. 09-06194-PCW11

Debtor(s).

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Adversary No. 11-80295-PCW11

Plaintiff(s),

vs.

REPORT AND RECOMMENDATION
RE: PLAINTIFF'S MOTION FOR
ENTRY OF DEFAULT JUDGMENT
AGAINST DEFENDANT MYLES
CLARKE (ECF NO. 666)

1418490 ONTARIO, LTD., et al.,

Defendant(s).

The Honorable Patricia C. Williams, sitting in the United States Bankruptcy Court for the Eastern District of Washington, hereby files this Report and Recommendation regarding plaintiff's Motion for Entry of Default Judgment Against Defendant Myles Clarke (ECF No. 666) filed with the bankruptcy court in this adversary proceeding.

1 This Report and Recommendation is made pursuant to the Honorable Rosanna
2 Malouf Peterson's Order Withdrawing the Reference and Referring to Bankruptcy
3 Court for Further Proceedings entered on April 25, 2012 (ECF No. 28) in district court
4 case No. 11-CV-364-RMP.

5 The recommendation is that plaintiff's Motion for Entry of Default Judgment
6 Against Defendant Myles Clarke (ECF No. 666) be granted and the attached Default
7 Judgment be entered in this adversary proceeding. The basis for this recommendation
8 is that an Order of Default was entered by the bankruptcy court on September 17, 2013
9 (ECF No. 595).

10 ///END OF REPORT AND RECOMMENDATION///

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

In Re:

US District Case No. 11-CV-00364

LLS AMERICA, LLC,

Bankruptcy No. 09-06194-PCW11

Debtor.

BRUCE P. KRIEGMAN, Liquidating
Trustee for LLS America LLC,

Adversary No. 11-80295-PCW 11

Plaintiff,

**DEFAULT JUDGMENT AGAINST
DEFENDANT MYLES CLARKE**

v.

1418490 ONTARIO, LTD., et al.,

Defendants.

JUDGMENT SUMMARY

- | | |
|--|-----------------------------|
| 1. Judgment Creditor: | Plaintiff Bruce P. Kriegman |
| 2. Attorney(s) for Judgment Creditors: | Witherspoon Kelley |
| 3. Judgment Debtors: | Myles Clarke |
| 4. Attorney for Judgment Debtor(s): | None |

DEFAULT JUDGMENT- 1

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5. Amount of Judgment: \$ 18,333.32CAD
\$ 250.00 USD
6. Amount of Interest Owed to Date
of Judgment: \$ 0.00
7. Interest Rate: 0.11% per annum

JUDGMENT

The Bankruptcy Court having previously entered an Order of Default against Defendant Myles Clarke (Adv. Doc. No. 595), and having reviewed the previously filed Memorandum of Authorities (Adv. Doc. No. 525), and the Affidavits of Curtis Frye and Shelley Ripley in Support of Plaintiff's Motion for Default Judgment filed herewith, and being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America, LLC, shall have a judgment against the Defendant Myles Clarke, as follows:

1. Monetary Judgment in the amount of \$18,333.32 CAD, pursuant to 11 U.S.C. § 550 and RCW 19.40.071;

2. Transfers in the amount of \$18,333.32 CAD made to Defendant Myles Clarke within four years prior to the Petition Filing Date are hereby avoided and Plaintiff may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544, 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;

DEFAULT JUDGMENT- 2

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3. All said transfers to Defendant Myles Clarke are hereby set aside and Plaintiff shall be entitled to recover the same, or the value thereof, from Defendant Myles Clarke for the benefit of the estate of LLS America, pursuant to 11 U.S.C. §§ 544, 550 and 551;

5. Defendant Myles Clarke did not file a proof of claim in Debtor's bankruptcy proceedings.

6. A constructive trust is hereby established over the proceeds of all transfers in favor of the Trustee for the benefit of the estate of LLS America; and

7. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of \$250.00 USD, for a total judgment of \$18,333.32 cad, plus \$250 USD, which shall bear interest equal to the weekly average of one-year constant maturity (nominal) treasury yield as published by the Federal Reserve System.

Entered this ____ day of _____, 2013.

HONORABLE ROSANNA PETERSON

Presented by:

WITHERSPOON • KELLEY

s/ Shelley N. Ripley
Shelley N. Ripley, WSBA No. 28901
Daniel J. Gibbons, WSBA No. 33036
Attorneys for Plaintiff

DEFAULT JUDGMENT- 3

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